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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,682	12/01/2003	Dennis A. Fagan	201853/12	2363
7590	07/02/2004		EXAMINER	
Nixon Peabody LLP Clinton Square P.O. Box 31051 Rochester, NY 14603-1051			LEE, JONG SUK	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/724,682	FAGAN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Jong-Suk (James) Lee	3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-8 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities:

Page 1, line4: -- , abandoned -- should be inserted after "filed October 20, 2000".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103<sup>©</sup> and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen (US 5,324,138) in view of Curtis et al. (US 6,152,656).

Hansen discloses a in-situ process for increasing the capacity of a municipal solid waste landfill comprising the steps of: providing a machinery, such as bulldozers, backhoe, track loaders (see col.3, lines 49-68) for removing a soil cover of the existing

landfill; exposing/ disturbing a substantial portion of a volume of previously land filled municipal solid waste without reducing the size of waste particles in the volume of solid waste; aerating the exposed/disturbed municipal waste; adding/moistening moisture to the solid waste to adjust the moisture content of the municipal solid waste material, the moisture adjustment may be effectively performed with the use of agricultural-types spray irrigation units providing approximately 500 gallons per minute of water a pre-selected area of the solid waste (see col.8, lines 66-68; col.9, lines 1-13; col.10, lines 30-43).

Further, the amount of water may have been applied to the waste may be easily calculated by appropriate weight of the dry waste through density and volume and applying a corresponding amount of water to yield a moisture content of 40-60 % by weight--approximately 10-15 gallons of liquid per ton of solid waste of the landfill (see col.5, lines 65-68; col.6, lines 1-7).

However, Hansen fails to specifically disclose the structural elements for the fluid spraying/delivery system, such as a fluid jet, conduits connected between a fluid source, a pump and the jet nozzle.

Curtis et al.'656 discloses a fluid delivery system applicable in the environmental treatment of solid, semisolid and liquid waste for providing water spraying comprising of: an excavator (11) including a movable arm and a fluid jet (52) coupled to the movable arm; an industrial equipment comprising of a pump/motor (106) having an inlet and an outlet; a first conduit (54) in communication between a fluid source/tank (56) and the pump inlet; and a second conduit in fluid communication between the fluid jet (52) and the pump outlet as depicted in Fig. 7 (see col.5, lines 31-53; col.6, lines 39-49).

Therefore, in view of Curtis et al.'656, it would have been obvious to one of ordinary skill in the art at the time the invention was made to equip the fluid system structures of Curtis et al.'656 to the machinery/bulldozer/excavator/backhoe of Hansen of the landfill site in order to efficiently induce and accelerate the decomposition of the decomposable landfill materials whereby the volume of decomposable landfill materials being reduced.

With respect to the method step of simultaneously adding moisture and exposing the municipal solid waste material, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the landfill controlling machinery and the water spraying system equipped to the machinery in order to mix, aerate and moisten the municipal solid waste material on the work face of the exposed land fill area.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other references cited disclose a method for treatment of dredged materials to form a structural fill, a excavation assembly, apparatus and method of

operating it and a waste processing attachment and method for environmentally treating a waste lagoon.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jong-Suk (James) Lee whose telephone number is (703) 308-6777. The examiner can normally be reached on 6:30 am to 3:00 pm, Monday thru Friday.

Art Unit: 3673

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Heather C. Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Lee /jjl  
June 25, 2004



**Jong-Suk (James) Lee**  
**Patent Examiner**  
**Art Unit 3673**